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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,645	07/27/2004	Pradip K. Saha	01-1163A	4644
64722 7590 06/15/2007 OSTRAGER CHONG FLAHERTY & BROITMAN, P.C. 570 LEXINGTON AVENUE FLOOR 17 NEW YORK, NY 10022-6894			EXAMINER HOOK, JAMES F	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 06/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/710,645

Applicant(s)

SAHA ET AL.

Examiner

James F. Hook

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-40 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,932,118 in view of Dolan (478). The 118 patent discloses all of the recited structure of the instant application with the exception of defining an overflow groove and a plurality of flat surfaces. As seen in Dolan, figure 2 shows that the shaped connection area of the torque tube can be provided with overflow grooves and a plurality of flat faces when the connection area is formed similarly to that set forth in the 118 patent. It would have been obvious to one skilled in the art to modify the connection area of the 118 patent by providing and defining on such an overflow groove and a plurality of flat surfaces where

such is an equivalent manner to form the connection region of a torque tube that is old and known in the art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9, 11-19, 22, 24-32, 35, 36, and 38-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Dolan (478). The patent to Dolan discloses the recited torque tube and method of forming it comprising forming at least one fitting 34 having an elongated tube conforming area 36 formed as a chamfer area 56 having an upper surface 58 and the lower surface 66 where the chamfer angle is recited as being within the range of 30-55 degrees, an elongated tube 32 is provided forming an end portion of the elongated tube onto the elongated tube conforming area to form the torque transmitting coupling, it can be seen that the surface arcs with a significantly large radius the same as applicants figures show, the connection is made using an electromagnetically formed method, the tube is aged artificially to reach a T-81 condition, the tube is painted to resist corrosion, as can be seen in figure 2 an overflow groove is formed near 32, and on either side of the overflow grooves are formed a plurality of flat surfaces, it can be seen in figures that the tube arc length is approximately equal in length to the formed area length, the fitting is formed such that

the associated tube arc length and formed area length are inherently predetermined such that the tube is neither in tension nor compression over the conforming area where such is a factor of how the joint is formed which is the same as applicants and therefore would have the same properties inherently, the inner surface has a plurality of fitting contact points, at least one tube arc length is defined by the distance along the inner surface between sequential fitting contact points over at least one forming surface area of the fitting, a distance between sequential fitting contact points on the fitting over at least one forming surface area.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, 20, 21, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dolan (478) in view of Arena (872). The patent to Dolan discloses all of the recited structure with the exception of forming the chamfer angle to lower angles such as 20 degrees. It would have been obvious to one skilled in the art to modify the chamfer angle in Dolan to be lower than 30 degrees, including at least as low as 20 degrees, as suggested by Arena as such is disclosed as the known range limitations provided for chamfers of torque tubes to still allow for an adequate connection where changing the angle is a known expedient choice as suggested by Arena to as such is an

equivalent angle useable and would provide satisfactory results while needing less preparation of the fitting.

Claims 10, 23, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dolan (478) in view of Freeman. The patent to Dolan discloses all of the recited structure with the exception of providing an alodine coating to further protect the tube from corrosion. The patent to Freeman discloses that it is old and well known in the art to coat metals with various coatings including paints and alodine to protect the metal from corrosion. It would have been obvious to one skilled in the art to modify the tube in Dolan by providing an alodine coating along with the paint coating to provide extra protection against corrosion as suggested by Freeman where such would result in a tube that would last longer due to the extra protection thereby reducing the need for replacement.

Conclusion

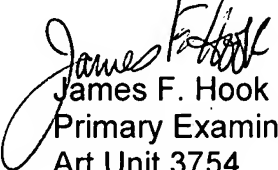
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Garman, Beech, Arena (488 and 799), Yamamoto, Dickson, Yablochnikov, Steingroever, and Gibson disclosing state of the art pipe connection structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

Art Unit: 3754

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH